

# United States Senate

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May 14, 2013

The Honorable Jack Lew  
Secretary of the Treasury  
Washington, DC 20220

Dear Secretary Lew:

I am writing to express my deep concern over the recent revelations of abuse of power by the Internal Revenue Service (IRS).

Last Friday, Lois Lerner, Director of the Exempt Organizations Division at the IRS, admitted that officials within the agency deliberately selected for heightened scrutiny applications for tax-exempt status filed by some conservative groups. According to Ms. Lerner, IRS officials targeted applications that included certain key words associated with conservative viewpoints, such as "tea party" and "patriot." Media reports indicate that groups critical of the government or that worked to educate the American people about the Constitution and the Bill of Rights were also targeted.

A report scheduled for release this week by the Treasury Inspector General for Tax Administration (TIGTA) is expected to show that this inappropriate targeting dates back to at least 2010, and came to the attention of senior IRS officials in 2011. Such a timeline, if accurate, would contradict March 2012 testimony by then-IRS Commissioner Douglas H. Shulman in which he told a House Ways and Means subcommittee that such targeting was not taking place.

Also troubling are reports that the IRS sought to compel the targeted groups to divulge their membership lists. Ms. Lerner has admitted that there was no reason for the IRS to have sought this type of information, and that it was not appropriate for the IRS to have done so. Indeed, Section 501(c)(4) organizations are not prohibited from engaging in political advocacy, as Ms. Lerner herself has noted. Thus, the fact that the IRS chose to press these organizations for their membership lists suggests an effort to chill the constitutional rights of speech and association by groups that hold conservative views and that were seeking tax-exempt status. This is reminiscent of the type of state action struck down by the U.S. Supreme Court in *NAACP v. Alabama* (1958). As the Court explained in that case, the disclosure of membership lists sought by the State of Alabama was an impermissible effort to "induce members to withdraw from the Association and dissuade others from joining[.]"

Furthermore, the abuses that are now making headlines appear to be part of a larger pattern of questionable activity by the Administration that seems intended to hinder or chill the expression of views critical of the Administration. Two years ago, for example, the IRS sent letters to donors of conservative 501(c)(4) tax-exempt organizations informing them that the IRS was investigating why they had failed to file gift tax returns reflecting their donations. Similarly, in 2011 the Administration proposed an executive order requiring federal agencies to collect



information about the campaign contributions and other political expenditures of potential federal contractors. In response to widespread opposition, the Administration ultimately did not issue the executive order.

Irrespective of whether those singled out were liberal or conservative, Republican or Democrat, the targeting of private citizens for exercising their First Amendment rights is unacceptable and cannot be tolerated. It has been said that the power to tax is the power to destroy. The American people cannot and will not tolerate the abuse of that power to erode their most fundamental rights. It is imperative that the Department act decisively to put an immediate end to such abuse, ensure appropriate policies are in place to prevent future such abuses, and give a full accounting to the American people of how such an abuse of power was allowed to occur. Toward that end, I ask you to direct the Department to respond expeditiously, and no later than May 27, to the following questions:

1. According to recent press reports on the upcoming TIGTA audit of the IRS's tax-exempt unit, Lois Lerner, the head of this unit, knew as early as June 2011 about the IRS targeting of certain conservative groups.
  - a. How did Ms. Lerner become aware of this activity?
  - b. What actions did Ms. Lerner take upon learning of this activity in June 2011?
  - c. To whom did she report this activity?
  - d. Please describe Ms. Lerner's chain of command.
  - e. What action did her superiors take?
  - f. When did her superior act?
2. According to recent press reports, senior officials learned of the targeting of conservative groups applying for tax-exempt status in June 2011.
  - a. Which IRS and Treasury officials were aware of the targeting activity at any time during 2010 and/or 2011?
  - b. When did these targeting activities begin?
  - c. Who made the decision to target these tax-exempt applications for additional scrutiny?
  - d. Have these targeting activities stopped?
  - e. What processes have been implemented to ensure this type of targeting does not occur in the future?
  - f. If such safeguards are not now in place, when will such processes be implemented?
3. Was former Commissioner Douglas H. Shulman or now-Acting Commissioner Steven T. Miller aware that the IRS was targeting conservative groups applying for tax-exempt status for special scrutiny?
  - a. If so, when did each become aware of this activity?
  - b. What specific actions did each take in response to this activity?
4. Press reports and statements by the Administration indicate that the IRS's targeting of conservative groups applying for tax-exempt status was limited to "a few employees" in an IRS office in Cincinnati.
  - a. Does this Cincinnati office process all of these tax-exempt applications?



- b. How many employees engaged in this targeting activity?
  - c. Who managed the activity of these employees?
  - d. Who directed the Cincinnati office to initiate additional screening of these tax-exempt applications?
  - e. What personnel actions, if any, have been taken pertaining to the employees involved in the targeting?
5. Were Department officials outside of the IRS or other Administration officials aware that the IRS was targeting conservative groups applying for tax-exempt status for special scrutiny?
  - a. Which officials were aware of this activity?
  - b. When did these officials become aware of this activity?
  - c. What actions did these officials take to discourage or encourage this activity?
6. Some press reports indicate approximately 300 tax-exempt applications were initially flagged for closer scrutiny and 75 were chosen additional scrutiny.
  - a. Please confirm the number of tax-exempt applications flagged within the IRS for closer scrutiny.
  - b. Have you queried other parts of the IRS to confirm this number represents the universe of applications flagged for closer scrutiny?
7. Please describe the process for developing criteria to screen these tax-exempt applications in 2010, 2011, and 2012.
  - a. Who managed the process of developing criteria to screen tax-exempt applications?
  - b. Who supervised this process?
8. What other key words besides "tea party," "patriot," and "9/12" were used to identify tax-exempt applications for additional scrutiny?
  - a. How were these key words chosen?
  - b. What other words were used?
  - c. Who approved the use of these key words?
9. Please describe the process in place (in 2010, 2011, and 2012) once tax-exempt applications were flagged for additional scrutiny.

Thank you for your prompt response.

Sincerely,



Susan M. Collins  
United States Senator